

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Serial No. : 10/510,973 Confirmation: 6167
Applicant : Guido Gentner
Filed : June 16, 2005
TC/A.U. : 2613
Examiner : Q. Z. WANG
Docket No. : 39090-28
Customer No. : 87133
For : METHOD FOR DETECTING A CHECK-BACK SIGNAL IN AN
OPTICAL TRANSMISSION SYSTEM

RESPONSE TO RESTRICTION/ELECTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the pending Restriction/Election Requirement, Applicants hereby provisionally elect Species I: Fig. 1 (claims 18-24 and 26-40).

Applicants respectfully request withdrawal of the Restriction Requirement. MPEP §803 states:

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (A) The inventions must be or distinct as claimed; and
- (B) There would be a serious burden on the examiner if restriction is not required.

In the present case, the Species directed to Figs. 1 and 2 are not distinct as claimed, nor would the search for all pending claims together be burdensome. The Examiner is also reminded that since this application is a national stage under 35 USC 371, the appropriate standard is unity of invention. Referring to MPEP 1893.03(d), the Examiner is reminded that "the principles of unity of

are used to determine the types of claimed subject matter and the combinations of claims to different categories of invention that are permitted to be included in a single international or national stage patent application." Unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art. (MPEP § 1850). Here, Fig. 1 and Fig. 2 are directed to the same invention and clearly have a technical relationship corresponding to the same special technical features. Indeed, Fig. 2 only provides additional features (e.g. PROC) to Fig. 1. Otherwise, they relate to the same technical features. Additionally, claim 18 is generic.

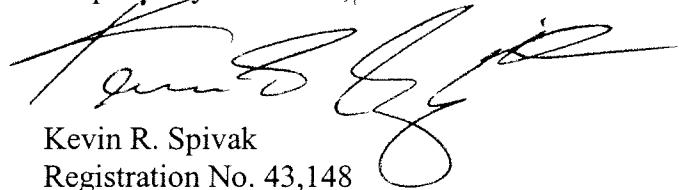
Moreover, from the standpoint of costs to the Applicants involved in filing, issuance and maintenance fees relating to separate applications if the present Restriction Requirement is maintained, it is clear that there is substantially more burden on Applicants by imposing the present Requirement than on the Patent Office if the Requirement were withdrawn.

In addition, it is noted that to require the claims of the various Groups to issue in separate patents would result in inconvenience to the public by necessitating reference to more than one patent during searching, to review closely related subject matter.

Therefore, withdrawal of the Restriction Requirement is warranted.

Reconsideration and withdrawal of the Restriction Requirement are respectfully requested.

Respectfully submitted,



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KRS/kec

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